

John Alke

MDY

431-4630

1126/07

REGULATION OF UTILITIES

STATE HOUSE, BOZEMAN
SENATE NO. 4
HOUSE NO. 1-216-07
NO. SB 189

from income or from capital assets or in any other manner by the public service commission in setting or regulating rates that may be charged by the public utilities pursuant to this chapter. This section does not apply to advertising that encourages the conservation of energy or product safety or informs the public of the availability of alternative forms of energy or recommends usage at times of lower rates or lower demand. Furthermore, for communications public utilities, the provisions of this section do not apply to advertising that relates to special equipment that is available to aid persons with disabilities or to special services that are designed to protect the public health, welfare, and safety, to promote more efficient use of a communications system, or to promote increased use of regulated communications services.

History: En. 70-121.1 by Sec. 1, Ch. 297, L. 1975; R.C.M. 1947, 70-121.1; amd. Sec. 1, Ch. 452, L. 1989; amd. Sec. 75, Ch. 472, L. 1997.

Cross-References

- Credit for energy-conserving investments, 15-30-125.
- Credit for energy-conserving expenditures, 15-32-109.
- Credit for installing alternative energy system, Title 15, ch. 32, part 2.
- Home weatherization programs, Title 90, ch. 4, part 2.

69-3-308. Disclosure of taxes and fees paid by customers of public utility — automatic rate adjustment and tracking for taxes and fees. (1) A public utility may separately disclose in a customer's bill the amount of state and local taxes and fees assessed against the public utility that the customer is paying.

(2) (a) (i) The commission shall allow a public utility to file rate schedules containing provisions for the automatic adjustment and tracking of Montana state and local taxes and fees, except state income tax, paid by the public utility. The resulting rate schedule changes must include:

(A) adjustments for the net change in federal and state income tax liability caused by the deductibility of state and local taxes and fees;

(B) retroactive tax adjustments; and

(C) adjustments related to the resolution of property taxes paid under protest.

(ii) The rate schedules must include provisions for annual rate adjustments, including both tax increases and decreases.

(b) The amended rates must automatically go into effect on January 1 following the date of change in taxes paid on an interim basis, subject to any adjustments determined in subsection (2)(c).

(c) The amended rate schedule must be filed with the commission on or before the effective date of the change in taxes paid, and if the commission determines that the revised rate schedule is in error, the commission may, within 45 days of receipt of the revised rate schedule, ask for comment and order the public utility to address any errors or omissions including, if necessary, any refunds due customers.

(d) Failure of the commission to issue an order pursuant to subsection (2)(c) is considered approval on the part of the commission.

(e) A public utility may challenge an order issued by the commission under subsection (2)(c) in accordance with the provisions of 69-3-401 through 69-3-405.

History: En. Sec. 1, Ch. 570, L. 2003.

69-3-309 reserved.

69-3-310. Rulemaking authority. The commission may adopt rules to implement this part.

History: En. Sec. 8, Ch. 210, L. 1991.

69-3-311 through 69-3-320 reserved.

69-3-321. Complaints against public utility — hearing. (1) The commission shall proceed, with or without notice, to make such investigation as it may deem necessary upon a complaint made against any public utility by any mercantile, agricultural, or manufacturing society or club; by any body politic or municipal organization or association, the same being interested; or by any person, firm, or corporation, provided such person, firm, or corporation is directly affected thereby, that:

(a) any of the rates, tolls, charges, or schedules or any joint rate or rates are in any way unreasonable or unjustly discriminatory;

(b) any regulations, measurements, practices, or acts whatsoever affecting or relating to the production, transmission, delivery, or furnishing of heat, light, water, power, or regulated telecommunications service, or any service in connection therewith is in any respect unreasonable, insufficient, or unjustly discriminatory; or

(c) any service is inadequate.

(2) No order affecting such rates, tolls, charges, schedules, regulations, measurements, practices, or acts complained of shall be entered without a formal hearing, except the commission may issue an order to provide service to a residential consumer pending a hearing on a complaint by such consumer or by the consumer counsel on behalf of such consumer against a public utility, providing that the hearing is held within 20 days unless further delayed by consent of all parties.

History: En. Sec. 17, Ch. 52, L. 1913; re-en. Sec. 3897, R.C.M. 1921; re-en. Sec. 3897, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1975; R.C.M. 1947, 70-119(part); amd. Sec. 14, Ch. 546, L. 1985.

Cross-References

Witness fees and mileage, 26-2-501, 26-2-505.

69-3-322. Treatment of multiple complaints. When complaint is made of more than one rate, charge, or practice, the commission may, in its discretion, order separate hearings upon the several matters complained of and at such times and places as it may prescribe.

History: En. Sec. 19, Ch. 52, L. 1913; re-en. Sec. 3899, R.C.M. 1921; re-en. Sec. 3899, R.C.M. 1935; R.C.M. 1947, 70-121(part).

69-3-323. Complaint by public utility. Any public utility may make complaint as to any matter affecting its own product or service with like effect as though made by any mercantile, agricultural, or manufacturing society; body politic or municipal organization; or person. Notice of the hearing upon any such complaint shall be given to the persons interested in such manner as the commission may by rule prescribe.

History: En. Sec. 19, Ch. 52, L. 1913; re-en. Sec. 3899, R.C.M. 1921; re-en. Sec. 3899, R.C.M. 1935; R.C.M. 1947, 70-121(part).

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

69-3-324. Initiation of action by commission itself. The commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, practices, and services and after a full hearing as provided in this part may make by order such changes as may be just and reasonable, the same as if a formal complaint had been made.

History: En. Sec. 19, Ch. 52, L. 1913; re-en. Sec. 3899, R.C.M. 1921; re-en. Sec. 3899, R.C.M. 1935; R.C.M. 1947, 70-121(part).

69-3-325. Notice of hearing. The commission shall give the public utility and the complainant or complainants at least 10 days' notice of the time when and the place where such hearing will be held.

History: En. Sec. 17, Ch. 52, L. 1913; re-en. Sec. 3897, R.C.M. 1921; re-en. Sec. 3897, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1975; R.C.M. 1947, 70-119(part).

Cross-References

Fees, 69-1-114, 69-3-204.

69-3-326. Conduct of hearing. At the hearing both the complainant and the public utility shall have the right to appear by counsel or otherwise and be fully heard. Either party shall be entitled to an order by the commission for the appearance of witnesses or the production of books, papers, and documents containing material testimony. Witnesses appearing upon the order of the commission shall be entitled to the same fees and mileage as witnesses in civil cases in the courts of the state, and the same shall be paid out of the state treasury in the same manner as other claims against the state are paid. No fees or mileage shall be allowed unless the chairman of the commission shall certify to the correctness of the claim.

History: En. Sec. 17, Ch. 52, L. 1913; re-en. Sec. 3897, R.C.M. 1921; re-en. Sec. 3897, R.C.M. 1935; amd. Sec. 1, Ch. 138, L. 1975; R.C.M. 1947, 70-119(part).

Cross-References

Witness fees in courts of record, 26-2-501.

Expert witnesses, 26-2-505.

Records of public utilities, 69-3-202.

Public Service Commission of Montana



MONTANA-DAKOTA

UTILITIES CO.
A Division of MDU Resources Group, Inc.

400 North Fourth Street
Bismarck, ND 58501

Volume No. 3

6th Revised Sheet No. 1

Cancelling 5th Revised Sheet No. 1

Electric Service

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January 1, 2000.

Service Date: May 12, 2005

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * *

| | | |
|---|---|-----------------------|
| IN THE MATTER OF MONTANA-DAKOTA |) | UTILITY DIVISION |
| UTILITIES CO., Application for Authority to |) | DOCKET NO. D2004.4.50 |
| Increase Rates for Natural Gas Service in its |) | ORDER NO. 6580a |
| Montana Service Areas |) | |

* * * * *

FINAL ORDER

APPEARANCES

FOR THE APPLICANT

John Alke, Hughes, Kellner, Sullivan, and Alke, Attorneys at Law, 406 Fuller Avenue, P. O. Box 1166, Helena, Montana 59624-1166.

FOR THE INTERVENORS

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West Sixth Avenue, P.O. Box 201703, Helena, Montana 59620-1703, for the Consumer Counsel.

FOR THE COMMISSION

Dave Burchett, Rate Analyst, Will Rosquist, Rate Analyst, and Martin Jacobson, Staff Attorney, 1701 Prospect Avenue, P.O. Box 202601, Helena, Montana 59620-2601.

FINAL ORDER BEFORE

GREG JERGESON, Chairman
BRAD MOLNAR, Vice-Chairman
DOUG MOOD, Commissioner
ROBERT H. RANEY, Commissioner
THOMAS J. SCHNEIDER, Commissioner, Hearings Examiner

I. INTRODUCTION

1. On April 1, 2004, Montana-Dakota Utilities Co. (MDU) filed with the Montana Public Service Commission (PSC) an application to increase its rates for natural gas service in Montana. MDU requested an increase in annual non-gas revenues of \$1,513,048, approximately 1.8% of test year revenues of \$83,358,279. If approved, the increase would affect approximately 73,150 Montana natural gas customers. MDU asserted it needs additional revenue to recover increased operating and maintenance expenses associated with higher labor and benefit costs and depreciation expense. MDU stated that in spite of cost control efforts, increases in operating and maintenance expenses have made current rates insufficient to compensate MDU for operating its Montana natural gas distribution system. MDU's last general rate increase in Montana occurred in 2002, in PSC Docket No. D2002.5.59.

2. MDU's proposed rate increase would affect customer classes by the following amounts and percentages:

| Table 1 | | |
|-----------------------|---------------|-------------------------|
| <u>Customer Class</u> | <u>Amount</u> | <u>Percent Increase</u> |
| Residential | \$969,849 | 1.9% |
| Firm General Service | \$543,199 | 1.9% |
| Small Interruptible | \$0 | 0.0% |
| Large Interruptible | \$0 | 0.0% |
| Total | \$1,513,048 | 1.8% |

3. On May 21, 2004, Montana Consumer Counsel (MCC) petitioned for intervention. On June 8, 2004, the Commission granted MCC's petition. No other party intervened in the proceeding.

4. During the course of procedures, MDU and MCC reached an agreement regarding depreciation rates, which resulted in a reduction to MDU's initial rate increase request from \$1,513,048 to \$1,084,052.

5. A public hearing was held in Billings, Montana, on November 17, 2004, before Commissioner Tom Schneider, acting as hearings officer. Six witnesses testified on behalf of

